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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,060	07/02/2003	Larry R. Yeager	1796021US1AP	6671

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,060

Applicant(s)

YEAGER ET AL.

Examiner

Christopher Boswell

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016

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-06-2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-8, 12-14, and 17 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,276,033 to Johnson et al.

Johnson discloses a theft deterrent device comprising a housing (5) having a base (9), a lock member (20), and a lock (figure 11) that locks the lock member in a locked position with respect to the base, as in claim 8, the base of the housing defining lock teeth (21 and 22), the lock member including a wedge (9f), as in claim 12, a clasp (6 and 7) having a pair of opposed locking legs (6b and 6c) connected together by a bridge (6a), as in claim 3, where each of the locking legs includes an outer surface, an inner surface, and a pair of opposed edges (figure 7), as in claim 4, each of the legs having a wedge-shaped inner surface (figure 7), each of the legs defining lock teeth (31 and 32), the legs of the clasp insertable into the housing when the lock member is in the unlocked position (figure 9), as in claim 7, and the wedge of the lock member engaging at least one of the inner surfaces of the clasp legs when the lock member is moved to the locked position to force the lock teeth of the clasp into locked engagement with the lock teeth of the base (figure 9), as in claim 14, wherein the position of the clasp is adjustable with respect

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to the base (depending on the depth the clasp is inserted), as in claims 1 and 17, wherein the clasp is U-shaped (figure 7) and locks to the housing in two spaced locations (27 and 28), as in claim 2.

Johnson further discloses a portion of the clasp is disposed between the wedge and the housing when the clasp is locked and when the wedge is in the locked position (figure 9), as in claim 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, as applied above, in view of U.S. Patent Number 5,791,079 to Mazzucchelli.

Johnson discloses the invention substantially as claimed. However, Johnson does not disclose lock teeth on other surfaces besides the inner surface of the legs of the clasp.

Mazzucchelli teaches an attachment element with locking teeth on plurality of surfaces (5) which engage into retention pawls (8a and 8b) in the analogous art of anti-theft devices for the purpose of being efficiently fixed to a product to be protected to resist attempts by shoplifters to remove it from the product. It would have been obvious to one with ordinary skill in the art at the time

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the invention was made to incorporate addition surfaces of locking teeth onto the locking legs of the clasp as well as adding additional locking teeth on the outer surface of the housing in order to efficiently fix the theft deterrent device to a product to resist attempts by shoplifters to remove the device.

Claims 9-11 rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, as applied above, in view of U.S. Patent Number 4,991,413 to Arnaldo.

Johnson discloses the invention substantially as claimed. However, Johnson does not disclose the lock having a finger and a ledge that the finger engages. Arnaldo teaches of a hinged element with a finger (11) that engages a ledge (18), as well as opposed sidewalls (4 and 5) with key opening (13), where the opening provides access to the lock finger (figures 4 and 5) in analogous art of anti-theft devices for the purpose of preventing disengagement of the anti-theft device from the element that is to be secured. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a finger attached to the side of the housing by means of a hinge, where the finger is disengaged by means of a key, that engages a ledge within the housing of Johnson in order to prevent the anti-theft device from disengaging from the article to which it is secured, and to provide an applied force between the clasp and the lock member.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to theft deterrent devices:

U.S. Patent Number 6,631,629 to Fuss et al., U.S. Patent Number 6,619,079 to Cheung, U.S. Patent Number 6,612,139 to Costa, U.S. Patent Number 4,649,397 to Heaton et al., U.S. Patent Number 3,932,918 to Paskert, U.S. Patent Number 1,930,560 to Keidel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (703) 305-4067. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LYNNE H. BROWNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

CJB